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HOUSE BILL 299

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

FRED LUNA

AN ACT

RELATING TO TAXATION; AMENDING THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX; EXPANDING THE DEFINITION OF "COUNTY"; PROVIDING FOR BONDING PURSUANT TO THE NEW MEXICO FINANCE AUTHORITY ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the New Mexico Finance Authority Act is enacted to read:

"NEW MATERIAL BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS. --The authority may issue bonds for a county seeking a loan to develop a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act only after a majority of the registered qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay

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1 bonds issued by the authority for the purpose of developing a  
2 county correctional facility."

3 Section 2. Section 7-20F-2 NMSA 1978 (being Laws 1993,  
4 Chapter 303, Section 2) is amended to read:

5 "7-20F-2. DEFINITIONS.--As used in the County  
6 Correctional Facility Gross Receipts Tax Act:

7 A. "county" means:

8 (1) a class A county, the population of which  
9 does not exceed one hundred fifty thousand people as  
10 determined by the 1990 federal decennial census; [~~or~~]

11 (2) a class B county with a population of at  
12 least fifty-seven thousand people but less than sixty thousand  
13 [~~according to~~] as determined by the 1990 federal decennial  
14 census; or

15 (3) a class B county with a population of at  
16 least forty-five thousand people but less than forty-seven  
17 thousand as determined by the 1990 federal decennial census;

18 B. "county board" means the board of county  
19 commissioners of a county;

20 C. "department" means the taxation and revenue  
21 department, the secretary of taxation and revenue or any  
22 employee of the department exercising authority lawfully  
23 delegated to that employee by the secretary;

24 D. "judicial-correctional facility" means a  
25 facility for housing and use by judicial and corrections

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1 agencies, including housing for persons confined in county  
2 corrections facilities; however, none of the facilities are  
3 required to be located on the same or contiguous parcels of  
4 land;

5 E. "municipality" means any incorporated city,  
6 town or village, whether incorporated under general act,  
7 special act or special charter;

8 F. "person" means an individual or any other  
9 legal entity;

10 G. "pledged revenues" means the revenue, net  
11 income or net revenues authorized to be pledged to the payment  
12 of revenue bonds issued pursuant to the provisions of the  
13 County Correctional Facility Gross Receipts Tax Act;

14 H. "refunding bond" means a refunding revenue bond  
15 issued pursuant to the provisions of the County Correctional  
16 Facility Gross Receipts Tax Act to refund revenue bonds issued  
17 pursuant to the provisions of that act; and

18 I. "revenue bond" means a county correctional  
19 facility gross receipts tax revenue bond. "

20 Section 3. Section 7-20F-3 NMSA 1978 (being Laws 1993,  
21 Chapter 303, Section 3, as amended) is amended to read:

22 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS  
23 TAX-- AUTHORITY TO IMPOSE-- RATE-- ORDINANCE REQUIREMENTS--  
24 REFERENDUM --

25 A. The majority of the members elected to the

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1 county board may enact an ordinance imposing on a county-wide  
2 basis an excise tax not to exceed a rate of one-eighth of one  
3 percent of the gross receipts of any person engaging in  
4 business in the county, including all municipalities within  
5 the county; provided that the voters of: [ ~~the county~~]

6 (1) a class A county described in Paragraph  
7 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B  
8 county described in Paragraph (2) of Subsection A of Section  
9 7-20F-2 NMSA 1978 have approved the issuance of general  
10 obligation bonds of the county sufficient to pay at least  
11 one-half of the costs of the construction and equipping of the  
12 new county judicial-correctional facility for which the county  
13 correctional facility gross receipts tax revenue is dedicated;  
14 or

15 (2) a class B county described in Paragraph  
16 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved  
17 the issuance of bonds by the New Mexico finance authority  
18 sufficient to pay at least one-half of the costs of the  
19 construction, equipping and furnishing of the new county  
20 correctional facility for which the county correctional  
21 facility gross receipts tax revenue is dedicated.

22 B. The tax imposed pursuant to Subsection A of  
23 this section may be referred to as the "county correctional  
24 facility gross receipts tax". The county correctional  
25 facility gross receipts tax shall be imposed only once for the

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1 period necessary for payment of the principal and interest on  
2 revenue bonds issued pursuant to the County Correctional  
3 Facility Gross Receipts Tax Act, but the period shall not  
4 exceed ten years from the effective date of the ordinance  
5 imposing the tax.

6 [B-] C. Any ordinance imposing a county  
7 correctional facility gross receipts tax pursuant to this  
8 section shall:

9 (1) impose the tax in any number of  
10 increments of one-sixteenth of one percent not to exceed an  
11 aggregate amount of one-eighth of one percent;

12 (2) specify that the imposition of the tax  
13 will begin on either July 1 or January 1, whichever occurs  
14 first after the expiration of at least three months from the  
15 date that the department is notified personally or by mail by  
16 the county that imposition of the county correctional facility  
17 gross receipts tax has been approved by a majority of the  
18 registered voters in the county voting on the question; and

19 (3) dedicate the revenue from the county  
20 correctional facility gross receipts tax for the purpose of  
21 constructing, purchasing, furnishing, equipping,  
22 rehabilitating, expanding or improving a judicial-correctional  
23 or a county correctional facility or the grounds of a  
24 judicial-correctional or county correctional facility,  
25 including but not limited to acquiring and improving parking

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1 lots, landscaping or any combination of the foregoing or to  
2 payment of principal and interest on revenue bonds or  
3 refunding bonds issued pursuant to the provisions of the  
4 County Correctional Facility Gross Receipts Tax Act.

5 ~~[C.]~~ D. An ordinance imposing a county  
6 correctional facility gross receipts tax pursuant to this  
7 section shall not become effective until after an election is  
8 held and a simple majority of the qualified electors of the  
9 county voting in the election votes in favor of imposing the  
10 tax.

11 E. The governing body shall adopt a resolution  
12 calling for an election within seventy-five days of the date  
13 the ordinance is adopted on the question of imposing the tax,  
14 and:

15 (1) in a class A county described in  
16 Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or  
17 a class B county described in Paragraph (2) of Subsection A of  
18 Section 7-20F-2 NMSA 1978, if a property tax at a rate  
19 necessary to comply with the provisions of Subsection A of  
20 this section has not been approved by the voters of the  
21 county, the question submitted to the voters shall be the  
22 question of imposing a county correctional facility gross  
23 receipts tax and a property tax at a rate necessary for the  
24 issuance of general obligation bonds of the county sufficient  
25 to comply with the provisions of the County Correctional

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1 Facility Gross Receipts Tax Act; or  
2 (2) in a class B county described in  
3 Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,  
4 the question to be submitted to the voters is "Shall a county  
5 correctional facility gross receipts tax be imposed to pay for  
6 the development of a county correctional facility and to repay  
7 bonds that will be issued by the New Mexico finance authority  
8 in an amount sufficient to pay at least one-half of the costs  
9 of developing the new county correctional facility?".

10 F. The question shall be submitted to the voters  
11 at any general election or special election called for that  
12 purpose by the board.

13 G. The election upon the question shall be called,  
14 held, conducted and canvassed in substantially the same manner  
15 as may be provided by law for general elections.

16 H. If the question of imposing the county  
17 correctional facility gross receipts tax and a property tax,  
18 if the question includes a property tax, fails, the board  
19 shall not again propose imposition of a county correctional  
20 facility gross receipts tax for a period of one year after the  
21 election.

22 [~~D.~~] I. Revenue produced by the imposition of a  
23 county correctional facility gross receipts tax that is in  
24 excess of the annual principal and interest due on bonds  
25 secured by a pledge of the county correctional facility gross

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1 receipts tax may be accumulated in a debt service reserve  
2 account until an amount equal to the maximum amount permitted  
3 pursuant to the provisions of the United States treasury  
4 regulations is accumulated in the debt service reserve  
5 account. After the debt service reserve account requirements  
6 have been met, the excess revenue shall be accumulated in an  
7 extraordinary mandatory redemption fund and annually used to  
8 redeem the bonds prior to their stated maturity date.

9 [E-] J. When all outstanding bonds have been paid,  
10 whether from the debt service reserve, the redemption fund or  
11 maturity, the ordinance shall be repealed if the county  
12 correctional facility gross receipts tax revenue is no longer  
13 required for the purposes for which it may be used pursuant to  
14 the provisions of the County Correctional Facility Gross  
15 Receipts Tax Act.

16 [F-] K. The repeal of an ordinance imposing a  
17 county correctional facility gross receipts tax shall state  
18 that the repeal shall be effective on January 1 or July 1,  
19 whichever occurs first following the date the department is  
20 notified personally or by mail by the county of the repeal."

21 Section 4. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect  
23 immediately.

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

3  
4  
5  
6 February 13, 1998

7  
8 Mr. Speaker:

9  
10 Your TAXATION AND REVENUE COMMITTEE, to whom has  
11 been referred

12  
13 HOUSE BILLS 127, 243, 299, 301, 443 and 450

14  
15 has had them under consideration and reports same with  
16 recommendation that they DO NOT PASS, but that

17 HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
18 HOUSE BILLS 127, et al

19  
20 DO PASS, and thence referred to the APPROPRIATIONS AND  
21 FINANCE COMMITTEE.

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

HTRC/CSHB 127, et al

Page 10

Respectfully submitted,

\_\_\_\_\_  
Jerry W. Sandel, Chairman

Adopted \_\_\_\_\_

(Chief Clerk)

Not Adopted \_\_\_\_\_

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 6 For 1 Against

Yes: 6

No: Russell

Excused: Crook, Gonzales, Lovejoy, Lujan, Sandel

Abstained: Stell

Absent: None

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HTRC/CSHB 127, et al

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